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## **PART 5317—SPECIAL CONTRACTING METHODS**

### **SUBPART 5317.1—MULTIYEAR CONTRACTING**

#### **5317.101 Definitions.**

“Classic Intermediate Multiyear Contract” means a multiyear contract that contains no economic order quantity advance procurement effort, contains an unfunded contingent liability greater than \$20 million in one or more contract years, and the contract value is less than \$500 million. These contracts allow only the amortization of tooling and other non-recurring start-up costs over the contract term to be included in the cancellation ceiling. Advance procurement funding lines are not required for this type of multiyear contract.

“Classic Small Multiyear Contract” means a multiyear contract that contains no economic order quantity advance procurement effort, contains an unfunded contingent liability no more than \$20 million in one or more contract years, and the contract value is less than \$500 million. These contracts allow only the amortization of tooling and other non-recurring start-up costs over the contract term to be included in the cancellation ceiling. Advance procurement funding lines are not required for this type of multiyear contract.

“Contingent Liability” means an annual not-to-exceed amount which defines the limit of the Government's liability in the event of the cancellation of a multiyear contract. This liability may be funded or unfunded. As used here, this term is synonymous with cancellation ceiling.

“Economic Order Quantity (EOQ)” means, in conjunction with multiyear procurement, the procurement of material or labor for future-year production quantities that is not required by procurement leadtimes but is desirable for economic reasons. The costs are sometimes characterized as recurring costs. Funding for EOQ procurement shall be included in an advance procurement line item. The advance procurement line items for an EOQ procurement shall cover the estimated annual termination liability of the EOQ effort unless full funding of the EOQ is desired.

“Expanded Intermediate Multiyear Contract” means any multiyear contract with EOQ effort of more than \$20 million for any contract year or an unfunded contingent liability greater than \$20 million and the total contract is less than \$500 million.

“Expanded Multiyear Contract” means a multiyear contract that contains economic order quantities (EOQ) for the acquisition of material or labor for future year production quantities that are not required by acquisition leadtimes but are desirable for economic reasons. These contracts contain recurring costs in the cancellation ceilings.

“Expanded Small Multiyear Contract” means any multiyear contract with EOQ effort of \$20 million or less for each contract year and an unfunded contingent liability less than \$20 million and the total contract is less than \$500 million.

“Major Multiyear Contract” means any multiyear contract (classic or expanded) greater than \$500 million. These contracts require specific approval in a DOD Appropriation Act.

“Multiyear Exhibit” means one of five separate exhibits prescribed in AFI 65-601, Budget Guidance and Procedures, and DOD 7000.14-R, DOD Financial Management Regulation, to support requests for multiyear contracts.

#### **5317.102 Policy.**

##### **5317.102-2 General.**

Commands are encouraged to aggressively explore multiyear contracting (MYC) opportunities and to take advantage of their overall reduced administrative burden and potential savings. However, before entering into any multiyear contract, the contracting officer shall review current congressional language for potential restrictions. SAF/AQCS is available to provide advice in this area. AFI 65-601 contains the exhibit package used in supporting multiyear candidates.

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**5317.103 Procedures.****5317.103-1 General.**

(a) *Criteria.* See Attachments 5317-1 through 5317-4 for multiyear contracting guidance. A written determination by the Assistant Secretary of the Air Force for Acquisition is required for any multiyear contract over \$500 million for systems, and any multiyear contract for property for which the cancellation ceiling is estimated to exceed \$100 million. The HCA, with power of redelegation, may make written determinations for multiyear contracts with a face value under \$500 million for property when the cancellation ceiling is under \$100 million. Forward requests for Secretarial determinations to SAF/AQCS.

*(b) Limitations.*

(v) The contracting officer shall transmit reports of intent to award a multiyear contract containing a cancellation ceiling in excess of \$100 million to the Office of the Secretary of the Air Force/Legislative Liaison (SAF/LLP), to arrive 40 days before the planned contract award date, with an information copy to SAF/AQCS and SAF/FMBI. SAF/AQCS shall notify OSD(C) (Investment Directorate).

(A) *SAF notification.* The contracting officer shall submit reports on proposed multiyear contracts containing a cancellation ceiling in excess of \$20 million, but not exceeding \$100 million, to SAF/AQCS and SAF/FMBI, to arrive not less than 40 days before the planned contract award date.

(B) *Award.* Unless the contracting officer is notified to the contrary, the contract may be awarded, subject to other required approvals and notifications, after close of the applicable waiting period described in paragraphs (A) and (B) above.

(C) *Report format.* The contracting officer shall use the report format specified in 5305.303-91 (a) with the appropriate modifications and additions that apply to multiyear contracting as follows:

- (I) State the face value for total multiyear period and, separately, the value of any options; and
- (II) Include the estimated cancellation ceilings for each program year of the proposed contract and the estimated savings over annual procurement methods.

**SUBPART 5317.2—OPTIONS****5317.203 Solicitations.**

When options are used in service contracts, use separate contract line items for the basic and each option period. Normally, obtain priced options for two, one-year periods.

**5317.204 Contracts.**

(e) The chief of the contracting office making the award may approve total contract periods in excess of five years on a case-by-case basis. This authority shall not be delegated.

(1) Situations in which contract periods in excess of five years may be appropriate include contracts with phase-in or phase-out requirements. A contract period in excess of five years may also be appropriate where the requirement is known, stable, and recurring and the price and availability in the commercial market place is relatively certain to be stable during the period of the contract.

(2) All approvals shall be made prior to solicitation and shall be included in the contract file. Documentation shall specify why a period longer than five years was needed or appropriate, what cost/price and performance risks are associated with the longer period, and how the contract has been structured to mitigate those risks to the contractor and the Government.

**5317.207 Exercise of options.**

(a) When the contractor has been notified of the Air Force's intent to exercise an option, a presolicitation notice shall not be placed in the Commerce Business Daily.

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- (c) Before exercising an option, the contracting officer shall determine if the contractor's performance is satisfactory.
- (d)(2) The following factors should be considered in the informal analysis of prices and the market:
  - (i) The fact that the option price was part of the initial award;
  - (ii) The relationship of the option price to the price for the initial contract period;
  - (iii) The adequacy of competition at time of initial award as compared to that at the time of the option period;
  - (iv) Changes in the general economy that could affect cost of performance;
  - (v) Informal survey of other contracting activities as to any substantive changes in bid prices for similar services at their activities;
  - (vi) Potential saving in administrative costs by exercising the option as compared to the administrative cost of awarding a new contract; and
  - (vii) The contracting officer shall also make a determination of contractor responsibility before exercising the option (see FAR 9.103).

**SUBPART 5317.5—INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT**

**5317.502-90 Air Force requirements for placing orders.**

- (a) The Economy Act permits a Federal Agency to order supplies and services from another Federal Agency under certain conditions. The Act was designed to promote economy in Government operations by permitting efficient use of Government resources, even though they may be in another agency. This eliminates duplication of effort to build expertise in several agencies and allows a Federal Agency to take advantage of another Federal Agency's substantial experience in a specific area. The Economy Act also promotes the economy that results from consolidating requirements (i.e., quantity discounts and other tangible or intangible benefits).
- (b) Orders to purchase supplies or services under contracts entered into or administered by another agency (or for supplies/services produced in-house by the servicing agency), may be placed with other agencies under the Economy Act only if:
  - (1) The purchase is appropriately made under an existing contract that the servicing agency entered into, before the requesting agency's order was placed, in order to meet the requirements of the servicing agency for the same or similar goods or services;
  - (2) The servicing agency is better qualified to enter into or administer the contract for such goods or services (or is producing the good or service in-house) because they possess capabilities or expertise not available within the Air Force;
  - (3) The servicing agency is specifically authorized by law or regulation to purchase the goods and services on behalf of other agencies; or,
  - (4) The purchase is authorized by an executive order or specifically allowed elsewhere in the FAR.
- (c) The Air Force shall not place an order with another agency unless adequate supporting documentation, including a Determination and Findings (D&F), is prepared. This supporting documentation shall be prepared and developed by the requiring activity. Supporting documentation and general information about the servicing agency's contract will be used in the preparation of the Determination and Findings described in 5317.503-90.
- (d) Interagency acquisitions are entered into by mutual agreement between the requesting agency and the servicing agency. If a requesting agency's order will interfere with the servicing agency's ability to meet its mission, the servicing agency may reject the order. The servicing agency can also reject the order if the requested supply or service is not within the scope of activities normally performed by the agency, within the scope of work of a particular contract, or if the order lacks adequate funding or required supporting data.
- (e) The Economy Act may not be used to circumvent the conditions and limitations imposed on the use of Government funds appropriated for the procurement (i.e., expiration of funds at the end of a fiscal year). This applies to conditions and limitations affecting either the requesting or the servicing agency.

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(f) Orders for supplies or services may also be placed with other agencies under authorities other than the Economy Act. Orders placed under these authorities are not subject to the requirements of the Economy Act. These additional authorities include:

- (1) Acquisitions from required sources as described in FAR Part 8;
- (2) Coordinated acquisitions prescribed in DFARS Part 208;
- (3) Project Orders (41 U.S.C. 23). Project orders are authorized for use when one Government agency wishes to procure a supply or service from another Government agency. DOD Instruction 7220.1 governs the use of project orders within the DOD. There are several conditions for use of the project order including the requirements that the servicing agency must be capable, be authorized, and produce the item or perform the service in-house. Only an incidental portion of a project order may be contracted-out by the servicing agency; and
- (4) Other specific statutory authorities may be used to acquire supplies and services from another agency.

**5317.503-90 Air Force determination requirements.**

(a) The decision by an Air Force activity to place an interagency order under the Economy Act with an agency outside the DOD, instead of contracting directly with a private source, shall be documented in a written Determination and Findings. The requiring activity shall prepare the D&F for approval at a level no lower than SES/Flag/General Officer in the requesting activity's chain of command. If an SES/Flag/General Officer in the requesting activity's chain of command is not available at the installation, the D&F will be approved by the wing or installation commander.

(b) The D&F shall be reviewed by the Air Force contracting officer who would normally have procured the requirement. The contracting officer will review the proposed D&F and supporting documentation as a "business advisor" to the approval authority. The content of the D&F will be consistent with the policies and procedures contained in the FAR. The ability of the local contracting office to procure the requirement under an Air Force contract will also be considered. Written comments will be provided to the approval authority to help in the decision to place the order with an agency outside the DOD.

(c) When assessing the cost of obtaining the supplies or services through an interagency agreement, the Air Force shall consider any administrative fees charged by the servicing agency as part of the total cost of the order. In accordance with Section 844 of the National Defense Authorization Act for fiscal year 1994, fees paid to the servicing agency shall not exceed the actual cost or, if actual costs are unknown, the estimated costs of entering into and administering the contract or other agreement under which the order is filled. The administrative cost of providing the supplies or services by normal Air Force contracting procedures shall also be considered.

(d) The requiring activity shall include with the Military Interdepartmental Procurement Request (MIPR) any documentation required to support the D&F. Examples include independent cost estimates and documentation of urgency of need. Copies of the documentation shall be retained with the requiring activity's file copy of the MIPR and provided to the servicing agency upon their request.

(e) If the work was previously performed by Government personnel and will now be performed by a contractor under a servicing agency's contract (or if the work was previously performed under a contract and will now be performed in-house by the servicing agency), the requiring activity must have complied with the requirements of FAR Subpart 7.3. This shall be documented in the D&F.

(f) The contracting office shall retain a record copy of each Economy Act D&F in a central file.

(g) The requiring activity shall prepare a D&F substantially the same as the model shown below. The D&F may be tailored to appropriately address the instant requirement.

**MODEL DETERMINATION AND FINDINGS**

1. I have reviewed the requirement for *[insert description of supply or service to be procured]* that *[insert Air Force requiring activity]* intends to place with *[insert agency]* as an interagency order under the Economy Act. My review produced the following findings:

- a. The proposed acquisition is authorized under the authority of the Economy Act;
- b. The Air Force is legally authorized to acquire the supplies or services;
- c. Adequate funds are available;
- d. The action does not conflict with any other agency's authority or responsibility (see FAR Part 8);
- e. The supplies or services cannot be provided as conveniently and more economically by private contractors under an Air Force contract;
- f. The servicing agency has unique expertise or ability not available within the Department of Defense;
- g. The servicing agency will accept the order and can satisfy the requirement;
- h. The supplies or services are clearly within the scope of activities of *[insert agency]* and that agency normally contracts for (and/or produces in-house) those supplies or services for itself;
- i. The cost to the Air Force for the requirement, including the administrative fees charged by *[insert agency]* appears to be reasonable. The fees proposed to be paid to the servicing agency do not exceed the servicing agency's actual cost (or estimated costs if actual costs are unknown) of entering into and administering the contract or other agreement under which the order is filled;
- j. The contract administration procedures related to *[insert agency]*'s contract are adequate for Air Force requirements (or the order contains additional contract administration requirements that will result in contract administration procedures that comply with Air Force and DOD regulations and policies);
- k. All approvals and authorizations required by Air Force and/or DOD policies for acquiring the supplies or services have been obtained;
- l. The requirement is a bona fide need of the Air Force;

*[Insert the following if the work will be performed by a Federally Funded Research and Development Center:]*

- m. The work will be performed by a Federally Funded Research and Development Center (FFRDC). Performance by the FFRDC will not place the servicing agency and its FFRDC in direct competition with private sources;

*[Insert the following if the work was previously performed by Government personnel and will now be performed by a contractor under a servicing agency's contract (or if the work was previously performed under a contract:)]*

- n. The requiring activity has complied with the requirements of FAR Subpart 7.3.

2. Given the findings outlined above, I hereby determine that it is in the best interest of the Government to place an order for *[insert requirement]* with *[insert agency]* under the authority of the Economy Act.

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**5317.504-90 Air Force ordering procedures.**

(a) The Air Force shall include complete contract administration requirements and contract audit responsibilities appropriate for the type of contract and scope of work on all orders placed outside of the Department of Defense.

(b) If it is necessary for the servicing agency to award a contract or modify an existing contract to accommodate the Air Force's order, the Air Force requiring activity shall supply all supporting data necessary to prepare the required contract documentation.

(c) The Air Force requiring activity shall also provide special contract terms or other requirements applicable to Air Force funds. This includes information such as special funds tracking and reporting requirements, additional contract administration requirements, special delivery or packaging instructions, a copy of the executed determination, and other supporting documents.

(d) Additional D&Fs are not required to incrementally fund an existing order or to administratively modify an order, if the scope of work remains the same throughout the order's period of performance.

(e) The servicing agency is responsible for complying with the Competition in Contracting Act when it awards the original contract. Therefore, the requesting agency is not required to compete the requirement between potential servicing agencies.

(f) Relationships with a servicing agency can involve one order or many orders over a long period of time. When using the servicing agency's contract to place and administer direct orders with a vendor, the requirements of the Economy Act still apply. Where the Air Force desires to enter into a long term, continuing relationship by placing orders with a servicing agency under the authority of the Economy Act, the requiring activity should ensure that the resulting interagency agreement includes, in addition to any other requirements of this section, the following:

(1) Enhanced management controls, as appropriate for the circumstances, to ensure that the interagency agreement is only used for its intended purpose(s). Such controls shall include a mechanism for periodic reassessment of the interagency agreement, at intervals not exceeding every five years, to determine its continuing need and relevancy. The review shall be conducted by the same personnel that review similar requirements that are being separately procured by the Air Force. The reassessment shall include review by a contracting officer to ensure that the agreement complies with appropriate business practices;

(2) A well-defined scope of work that includes clear objectives, work areas, and, where appropriate, reports and deliverables; and

(3) A definitive term of agreement.

(g) The following policy applies to orders placed with the Air Force as a servicing agency under the Economy Act:

(1) The Air Force is not required to accept the requesting agency's order, if accepting the order will prevent the Air Force from fulfilling its mission or the requesting agency fails to provide appropriate supporting information, funding, and evidence of an appropriate level of requesting agency approval;

(2) The Air Force shall process the order in accordance with normal internal policies and procedures for awarding and modifying contracts. This includes complying with the Competition in Contracting Act;

(3) The Air Force contracting officer shall execute and issue all D&Fs or J&As required by Air Force regulations to place the order on contract, just as if the requirement was generated by an Air Force activity; and

(4) Before allowing a non-sponsoring agency to use an FFRDC, the Air Force shall ensure that the work falls within the purpose, mission, general scope of effort, or special competency of the FFRDC. (See FAR 35.017; see also FAR 6.302 for procedures to follow when using other than full and open competition.) If the order does not conform with these requirements, the Air Force may not place the order with the FFRDC. The order also may not be placed with the FFRDC if the sponsoring agreement does not permit work from other than the sponsoring agency.

**5317.590 Orders with agencies not covered by the FAR.**

In accordance with Section 844 of the National Defense Authorization Act for fiscal year 1994, orders may not be placed with agencies not required to comply with the FAR unless the purchase is approved in advance by the Air Force Senior Ac-



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quisition Executive (SAF/AQ). This approval authority has been delegated to the Air Force Deputy Assistant Secretary (Contracting), SAF/AQC. Approvals will be accomplished by forwarding the D&F (and necessary supporting documentation) through SAF/AQCO for endorsement by the Air Force Deputy Assistant Secretary (Contracting), SAF/AQC. Prior to submittal to SAF/AQCO, the D&F must be reviewed by an Air Force contracting officer and coordinated by the SES/Flag/General Officer in the requiring activity's chain of command (see 5317.503-90 (a)).

**Non-FAR Covered Agencies**

The following are some of the Federal Agencies *not* covered by the FAR:

*Independent Establishments (Per 5 U.S.C. 104(1))*

- (a) U.S. Postal Service;
- (b) Postal Rate Commission;
- (c) Government corporations other than wholly owned Government corporations under 31 U.S.C. 9101(3) (i.e., mixed-ownership Government corporations under 31 U.S.C. 9101(2)):

- (1) Amtrak;
- (2) The Central Bank for Cooperatives;
- (3) The Federal Deposit Insurance Corporation;
- (4) The Federal Home Loan Banks;
- (5) The Federal Intermediate Credit Banks;
- (6) The Federal Land Banks;
- (7) The National Credit Union Administration Central Liquidity Facility;
- (8) The Regional Banks for Cooperatives;
- (9) The Rural Telephone Bank (after ownership conversion);
- (10) The U.S. Railway Association;
- (11) The Financing Corporation;
- (12) The Resolution Trust Corporation;
- (13) The Resolution Funding Corporation.

*Per the Federal Property and Administrative Services Act of 1949 (exemptions in accordance with 40 U.S.C. 474)*

- (a) The President under Philippine Property Act;
- (b) The Resolution Trust Corporation;
- (c) U.S. Postal Service;
- (d) Central Intelligence Agency;
- (e) Joint Committee on Printing;
- (f) U.S. Information Agency (but USIA public affairs office says it complies with the FAR)

**SUBPART 5317.74—UNDEFINITIZED CONTRACT ACTIONS**

**5317.7402 Exceptions.**

Treat undefinitized change orders and UCAs for Foreign Military Sales as UCAs in every respect except that obligations may exceed 75 percent of the NTE and, for FMS UCAs, reporting pursuant to 5317.7404-90 is not required.

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**5317.7403 Policy.**

UCA approval authorities shall control the use of UCAs and ensure timely definitization.

**5317.7404 Limitations.****5317.7404-1 Authorization.**

Each issuance of a UCA requires approval at a level above the contracting officer. The level of approval shall be consistent with the total estimated dollar value of the action.

(1) UCA approval authorities are designated as follows:

(i) Program Executive Officers (PEOs) for assigned programs (see 5302.101). PEOs may redelegate the authority to approve the issuance of UCAs up to \$5 million to the program director. For AFMC, the System Program Director (SPD) may redelegate this authority no lower than the Development Support Manager (DSM) or the System Support Manager (SSM), as appropriate.

(ii) DACs for Major Programs not assigned to a PEO and for Other Programs. The authority to approve the issuance of UCAs up to \$5 million is redelegable. For AFMC, this authority may be redelegated to the SPD who may redelegate no lower than the DSM or SSM.

(iii) Commanders of MAJCOMs, FOAs, and DRUs identified in DFARS Subpart 202.1 and 5301.601-91 for Other Contracting and for any programs not included under subparagraphs (i) or (ii) above. This authority is redelegable.

(2) Requirements impact statements shall:

(i) Specifically address the impact on mission requirements projected to occur during the time that would be required to issue a definitive contract action; and

(ii) Be signed by the official with responsibility for the requirement.

(3) UCAs for Provisioned Items Orders (PIOs) may be issued without additional approval, provided:

(i) The provisioning requirement was approved under the business clearance (see 5301.9006-3 (a)(2)) or, for production contracts that are not subject to the clearance process, the acquisition plan or Final Acquisition Action Approval (FAAA); and

(ii) The total dollar value of provisioned items ordered does not exceed the estimated value of the provisioned line items approved under the business clearance, acquisition plan, or FAAA.

(4) For AFMC PEO actions the Senior Center Official shall be afforded two calendar days to review/comment on all UCAs for Development/Production actions (see 5302.101) exceeding \$25 million and UCAs for Support/Sustainment actions (see 5302.101) exceeding \$15 million prior to submission to the PEO. For AFMC DAC actions, each approval request to issue an UCA of \$5 million or more shall be coordinated with the Senior Center or Laboratory Contracting Official.

**5317.7404-3 Definitization schedule.**

Each UCA shall contain a definitization schedule in the contract document. Before exceeding the definitization date, the contracting officer shall document in the contract file the reason(s) for the delay, remedial actions, and the revised definitization schedule. This documentation requires approval at a level no lower than the initial approval authority.

**5317.7404-4 Limitations on obligations.**

Obligations exceeding 50 percent of the NTE must be approved at a level no lower than the initial approval authority and documented in the contract file. Obligations for UCAs shall never exceed 75 percent of the NTE.

**5317.7404-6 Allowable profit.**

Perform profit assessments in accordance with DFARS 215.971-3 (d)(2).

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**5317.7404-90 Reporting undefinitized contract actions.**

Air Force contracting offices shall track UCA status (number, value, and age).

**SUBPART 5317.75—ACQUISITION OF REPLENISHMENT PARTS**

**5317.7501 General.**

HQ USAF/LGS is the Air Staff OPR for the DOD Replenishment Parts Breakout Program, and HQ AFMC is responsible for implementation of the program. In addition, surplus items shall be considered (see FAR Subpart 11.3). Finally, HQ AFMC/PK, in conjunction with the Command Competition Advocate, is responsible for implementing procedures for processing requests from sources seeking approval as a potential source for an item with a restrictive Acquisition Method Code (AMC).

**SUBPART 5317.76—CONTRACTS WITH PROVISIONING REQUIREMENTS**

**5317.7602 Contracting requirements.**

(1) The following provisioning procedures specifications and statements are authorized for use in connection with production contracts that require provisioning actions. Ensure that the current versions are used:

- (i) MIL-STD-1388-1, Logistics Support Analysis (LSA);
- (ii) DOD 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information System (MAIS) Acquisition Programs;
- (iii) DD Form 1949-1, LSAR Data Selection Sheet. For use with the latest version of MIL-STD-1388-2;
- (iv) DD Form 1949-2, Provisioning Requirements Statement. For use with the latest version of MIL-STD-1561; and
- (v) AFMC Form 718, Provisioning Performance Schedule. For use with the latest version of MIL-STD-1388.

(2) Applicable statements are prepared during the purchase request (PR) initiation/coordination cycle and are provided to the contracting officer with the PR for incorporation into the solicitation and the resulting contract.

**5317.7603 Contract administration requirements.**

**5317.7603-90 Deobligation of excess provisioning funds.**

Air Force provisioning activities shall authorize the ACO to deobligate excess provisioning funds (see FAR 42.302 (b)(4)). Such authorizations shall be in writing and shall identify the contract(s) involved and provide that:

- (1) Deobligation will normally be done in the supplemental agreement that is the final definitization action on a provisioning order. However, when the final definitization will be delayed and excess funds are available, the ACO may make appropriate partial deobligations; and
- (2) Funds to be deobligated will be separately identified by contract line item number, provisioning order number, and fund citation.

**SUBPART 5317.90—ESTABLISHING ADDITIONAL MANUFACTURING SOURCES**

**5317.9000 Option to establish a second manufacturing source.**

(a) In full-scale development and production solicitations and contracts, contracting officers shall insert an option that gives the Government the right to require the contractor to establish a second source for any component parts that are expected to require quantity manufacturing. See DFARS Appendix D for policy and procedures concerning component breakout during production.

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(b) The option shall be appropriately addressed in the statement of work, contract line items, special provisions, and source selection criteria. The solicitation shall specify whether not-to-exceed prices or firm prices for the option(s) are required.

(c) The solicitation shall specify or describe criteria for identifying the component parts for which a second source is desired (e.g., the “X” number of highest procurement value replenishment parts, or all parts having only one known qualified source, having sufficient stability of design to warrant qualification of an additional source, and requiring qualification to produce).

(d) The solicitation shall provide sufficient detail by which a contractor can develop realistic prices, as follows:

- (1) Definition of what constitutes second source “qualification;”
- (2) Description of technical assistance to be provided to a second source;
- (3) Payment procedures to be used during the various stages of qualifying a second source;
- (4) Whether contracting officer approval is required before a contractor may include an affiliate in its list of recommended potential sources; and
- (5) Whether the Government must pick one of the sources recommended by the contractor or may pick an entirely different source.

(e) The solicitation shall require the offeror to provide cost and pricing information so that the Government can determine if it is cost effective to establish a second source, such as:

- (1) The part’s name or title, and its applicable drawing number;
- (2) The part’s function and location in the system;
- (3) The part’s suitability for establishing another manufacturing source;
- (4) Whether limited rights technical data or restricted rights computer software will be used in the manufacturing process;
- (5) The names of proposed additional sources to be qualified; and
- (6) The price to qualify at least one of these sources.

#### **SUBPART 5317.91—CONTRACTING FOR LONG LEAD ITEMS INITIATED WITH ADVANCE PROCUREMENT FUNDS**

##### **5317.9100 Scope.**

This subpart prescribes policies and procedures for the acquisition of long lead items initiated with appropriated advance procurement funds to protect production end item delivery schedules. For long lead items procured with other than advance procurement funds, contracting officers should follow standard contracting procedures, including undefinitized contract action (UCA) procedures prescribed in DFARS Subpart 217.74.

##### **5317.9101 Definitions.**

“Advance procurement funds” means funds specifically authorized by Congress for the acquisition of long lead items and associated efforts or Economic Order Quantities (EOQ) of items in a fiscal year in advance of contracting for the production of the related end item(s). Advance procurement funds are an authorized exception to the full funding policy.

“Full production program release” means a point in time when both full funding and direction (i.e., Program Management Directive) for the fiscal year production buy are available to the program office.

“Long lead effort” means that portion of the total contract effort which is funded with advance procurement funds.

“Long lead items” means components, parts, material, and efforts whose leadtimes are significantly longer than other components of the system or subsystem, and, as a result, must be funded in advance of full production program release to protect the planned production schedule.

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“Not-to-exceed (NTE)” means the maximum fixed-price, target price, or estimated cost the Government will be obligated to pay for the total contract effort or the long lead effort.

“Procurement funds” means funds which are appropriated for the production of specific systems or subsystems (i.e., 3010, 3020, 3080 funds).

“Rough Order of Magnitude (ROM) Estimate” means a price or cost estimate prepared by the contractor for contemplated work. This estimate is not contractually binding.

“Termination liability” means the maximum cost the Government would incur in the event a contract is terminated.

“Total contract effort” means the full scope of effort contemplated by the production contract (i.e., end item deliveries, software, data, warranties, etc.) and includes the long lead effort.

“Undefinitized long lead contract” means a unique, contracting approach using UCA-like procedures to initiate the long lead effort when definitive contracting procedures are not practicable.

**5317.9102 Applicability.**

This subpart applies to:

(a) The use of appropriated advance procurement funds authorized by Congress for acquiring long lead items prior to release of procurement funds when negotiating a definitive contract, for either the entire end item or for the long lead items, is not possible in sufficient time to meet operational requirements;

(b) The continuation of an undefinitized long lead contract effort with procurement funds to avoid a break in contract performance due to definitization delays caused by variations in the planned versus appropriated quantities, unavoidable delays in negotiations, and other limited circumstances where approved by the original approval authority for the undefinitized long lead contract; and

(c) The procurement of Foreign Military Sales (FMS) requirements using the procedures in this Supplement except for UCA reporting requirements.

**5317.9103 Policy.**

(a) Contracting for long lead items using Congressionally appropriated advance procurement funds is a special contracting method used to protect planned production schedules for major system acquisitions. This approach provides Congress with the flexibility to make decisions on annual funding levels while providing a measure of program stability. Advance procurement funds must be included in the budget request. If authorized by Congress, funds are made available well in advance of full production program release.

(b) A definitive contract is preferred. When it is possible to award a definitive contract using advance procurement funds, the contracting officer shall follow normal contracting procedures for awarding a definitive contract.

(c) It is usually not practical to initiate the long lead effort using fully definitized contract procedures when final production quantities remain unknown. Therefore, procedures similar to those for a undefinitized contract action (UCA) are used to initiate the long lead effort. In recognition of this unique situation, Congress has exempt long lead efforts initiated with advance procurement funds from the requirements of 10 U.S.C. 2326 (see DFARS Subpart 217.74).

(d) After the award of the undefinitized long lead contract, the contracting officer shall make every effort to negotiate a definitive contract amount for the total contract effort based on the buy profile for which the advance procurement funds were authorized. The use of a flexible pricing approach such as pricing for a range in quantity or negotiating a pricing methodology that will allow for an extrapolation of a fixed-price is highly encouraged. These techniques greatly reduce reproposal activity and facilitate a quick reaction to variations in the related end item quantity between the planned and appropriated quantities. When this is not possible and delays in definitizing the contract result in termination liability exceeding the advance procurement funds, the use of procurement funds may be authorized to avoid production breaks. If procurement funds are added to the contract effort prior to definitization, the long lead effort is then treated as a part of the production effort and is subject to all the procedures and reporting requirements governing UCAs.

**5317.9104 Procedures.**

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These procedures apply to contracting for long lead items initiated with advance procurement funds where the contract must be awarded on an undefinitized basis.

**5317.9104-1 Preaward requirements.**

(a) When a definitive contract cannot be awarded, a separate undefinitized long lead contract shall be used for each production buy. Prior to the issuance of the undefinitized long lead contract, the contracting officer shall:

- (1) Ensure authorized and appropriated advance procurement funds are available. Advance procurement funds shall be obligated on the undefinitized long lead contract to the amount of the termination liability for the long lead effort;
- (2) Obtain a NTE proposal and reach agreement on a NTE amount for the long lead effort;
- (3) If feasible, obtain a NTE for the total contract effort, or as a minimum, obtain a ROM estimate;
- (4) Obtain a listing of the long lead items from the contractor;
- (5) Obtain a written technical evaluation for the long lead items that focuses on the need for the items to protect end item delivery schedules. This evaluation shall be included in the contract file;
- (6) Conduct a thorough evaluation of the contractor's termination liability amount, expenditure profile, and NTE proposal. The evaluation of the termination liability estimate should focus on the content of the estimate, the methodology used to develop the estimate, and the termination liability time phasing. The evaluation shall be included in the contract file; and
- (7) Obtain approval to issue the undefinitized long lead contract using the procedures described for undefinitized contract actions (see 5317.7404-1).

**5317.9104-2 Undefinitized long lead contract requirements.**

(a) The undefinitized long lead contract shall include:

- (1) A NTE for the long lead effort;
- (2) Specifications, statement of work, and/or other technical description of the end items being acquired;
- (3) Identification of statement of work tasks related to the long lead effort including a listing of the long lead items being acquired. If it is not feasible to develop a complete material listing identifying individual parts, components, material or efforts, as a minimum, the long lead items listing will include a description of each major component;
- (4) A schedule for delivery of the production end items in Section F of the Schedule;
- (5) A requirement for periodic financial status reports which track actual expenditures to planned expenditures;
- (6) The Long Lead Limitation of Government Liability Clause (see 5352.217-9000);
- (7) A special contract requirement (Section H) clause that addresses the subsumption of the long lead effort into the production contract line items (CLINs). The clause shall as a minimum:
  - (i) Stipulate that upon receipt of full production program release and use of procurement funds, the long lead effort CLINs or SubCLINs will be subsumed into the production CLINs or SubCLINs. Upon subsumption, all work performed and any payments made under the long lead effort CLINs or SubCLINs shall be presumed to have been done under the production CLINs or SubCLINs; and
  - (ii) Identify the CLINs or SubCLINs that will be affected;
- (8) A special contract requirement (Section H) clause that addresses the unique requirements of the long lead effort. The clause shall as a minimum:
  - (i) Stipulate that the purpose of the undefinitized long lead contract initiated with advance procurement funds is to protect the end item delivery schedule contained in Section F of the Schedule and that the contractor is contractually obligated to meet this schedule except as provided for in the Long Lead Limitation of Government Liability clause; and

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(ii) Require the contractor to submit a NTE proposal and agree to a NTE for the total contract effort (if a NTE for the total contract effort was not previously obtained) if definitization of the total contract effort has not occurred before termination liability exceeds advance procurement funds on the contract and procurement funds must be added to protect the end item delivery schedules. This NTE shall be incorporated into the contract concurrent with the obligation of any procurement funds;

(9) A special contract requirement (Section H) clause that addresses suspension or reduction in progress payments for late submission of either the NTE proposal or the definitive price proposal for the total contract effort. The clause shall, as a minimum:

(i) Require submittal of a NTE proposal or definitive price proposal adequate for negotiations to complete definitization within the specified time period. The clause shall identify this submission as a material requirement of the contract; and

(ii) State that if the contractor fails to submit either a NTE proposal or adequate definitive price proposal in accordance with the agreed upon definitization schedule, progress payments may be reduced or suspended unless such failure is due to causes beyond its control and without its fault or negligence;

and

(10) A special contract requirement (Section H) clause that addresses the process for definitizing the long lead contract. The clause shall as a minimum:

(i) State that a definitive contract is intended, and to the maximum extent practicable, a definitive contract will be negotiated prior to the receipt of full production program release;

(ii) Include an agreed upon schedule for definitizing the total contract effort that addresses, as a minimum, target dates for submission of proposal, negotiations completion and definitization; and

(iii) Address adequate remedies if a definitive contract cannot be reached by the target date or within any extension granted by the contracting officer. These remedies may include, with approval from the original approval authority for the undefinitized long lead contract, the contracting officer's unilateral determination of a reasonable fee for the long lead effort and/or a reasonable price for the total contract effort if a NTE has been established. The contracting officer's determination is subject to contractor appeal as provided in the Disputes clause.

**5317.9104-3 Requirements for adding procurement funds when termination liability has exceeded obligated advance procurement funds.**

(a) If the undefinitized long lead contract cannot be definitized before termination liability exceeds advance procurement funds, procurement funds may be obligated for the long lead effort. Prior to obligating any procurement funds the contracting officer shall:

(1) Obtain the approval of the original approval authority for the undefinitized long lead contract. The request for approval shall include:

(i) A written justification that addresses the need, the impact, if not granted, and why contract definitization cannot be completed within the time specified; and

(ii) A revised contract definitization schedule which has been agreed to by the contractor;

(2) Obtain a NTE proposal for the total contract effort and evaluate for reasonableness. After reaching agreement on the NTE, the contracting officer shall incorporate it into the contract;

(3) Evaluate the contractor's revised termination liability estimate (see 5317.9104-1 (a)(6)); and

(4) Comply with all UCA requirements contained in DFARS Subpart 217.74. Previously obligated advance procurement funds will be combined with the procurement funds in establishing UCA obligation limitations. The 180-day definitization schedule begins when the procurement funds are obligated on the undefinitized long lead contract.

**5317.9105 Contract clauses.**

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Insert the clause at 5352.217-9000, Long Lead Limitation of Government Liability, in all long lead contracts initiated with advance procurement funds.



## ATTACHMENT 5317-1 MYC QUICK REFERENCE GUIDE

## ATTACHMENT 5317-1 MYC QUICK REFERENCE GUIDE

Definition	Approval Level For Initial Finding (Atch 5317-2)	Approval Level For Validation Finding (Atch 5317-3)	Congressional Notification Before Contract Award (Atch 5317-4)
Classic Small Multiyear Contract	EOQ = \$0 UCL ≤ \$20 Mil  HCA *	<div> <p>Category I. If validation findings savings are greater than or equal to initial findings savings, the HCA or, if delegable, the designee can approve proceeding with the multiyear contract.</p> <p>Category II. If validation findings savings are less than initial findings savings, SAF/AQ approves major MYCs, and the HCA or, if delegable, the designee approves all others.</p> <p>Category III. If the present value as determined by Exhibit 5 becomes negative, SAF/AQ approves major MYCs and SAF/AQC approves all others.</p> </div>	None
Classic Intermediate MYC	EOQ = \$0 UCL > \$20 Mil  HCA **		30-Day Notification Procedure
Expanded Small Multiyear Contract	EOQ < \$20 Mil UCL ≤ \$20 Mil Total Contract ≤ \$500 Mil  HCA * ***		None ***
Expanded Intermediate MYC	EOQ > \$20 Mil UCL > \$20 Mil Total Contract ≤ \$500 Mil  HCA ** ***		30-Day Notification Procedure
Major Classic or Expanded Multiyear Contract	Total Contract > \$500 Mil  SAF/AQ ****		Major MYC notification procedures

## KEY:

- (1) EOQ = Economic Order Quantity effort involving investment in recurring cost  
 (2) UCL = Unfunded Contingent Liability  
 (3) HCA = Head of the Contracting Activity

## NOTE:

- \* HCA may delegate  
 \*\* Non-delegable by HCA  
 \*\*\* Assumes previously established advance procurement line  
 \*\*\*\* Inclusion in an Appropriation Bill

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**ATTACHMENT 5317-2 INITIAL MULTIYEAR CONTRACT (MYC) FINDING****I. General Requirements**

References: DFARS 217.103-1

**A. Approval**

1. Approval of the initial MYC finding (sample attached) is required prior to release of a formal Request for Proposal (RFP) or Invitation for Bid (IFB) for all classic or expanded MYCs. Approval level is provided in Attachment 5317-1, MYC Quick Reference Guide, and paragraph I.A.3. (below). Provide a copy of all approval initial findings (including exhibits) to SAF/AQCS for information.

2. The HCA (nondelegable) may allow early RFP release, if in the best interest of the Government, and if all other pre-solicitation requirements have been met.

3. Approval of the initial MYC findings indicates that (1) funding and (2) support information specified in the individual categories below is documented and the criteria in FAR 17.103-1 (a) are met.

**a. Classic Small MYC**

(1) Approval Level - HCA (delegable)

(2) Funding - There must be a reasonable expectation that throughout the life of the contract adequate funding will be available to avoid contract cancellation. The cancellation ceiling can be left unfunded provided that a cancellation ceiling profile is established in the contract in accordance with FAR 52.217-2, Cancellation of Items.

(3) Support - The finding should support that the criteria in FAR 17.103-1 (a) are met.

**b. Classic Intermediate MYC**

(1) Approval Level - HCA (nondelegable)

(2) Funding - same as classic small MYC

(3) Support - Support for the finding must include multiyear Exhibits 1, 2, 4, 6, and 8 in order to support Congressional notice.

**c. Expanded Small MYC**

(1) Approval Level - HCA (delegable)

(2) Funding

(a) Non-recurring start-up costs included in the cancellation ceiling (see FAR 52.217-2 (f)) can be unfunded provided that a yearly cancellation ceiling profile is established within the contract.

(b) EOQ effort will be funded to termination liability in an advance procurement line item. Paragraph B, Funding Expanded MYCs, provides methods for obtaining advance procurement/EOQ authority.

(3) Support - must include multiyear exhibits.

d. Expanded Intermediate MYC

- (1) Approval Level - HCA (nondelegable)
- (2) Funding - same as expanded small MYC
- (3) Support - must include a full multiyear justification package (exhibits).

e. Major MYC (Classic/Expanded)

- (1) Approval Level - SAF/AQ
- (2) Funding - same as expanded small MYC
- (3) Support - must include a full multiyear justification package (exhibits).

B. Funding Expanded MYCs

1. EOQ must be funded with an advance procurement line item. There are normally four ways in which an advance procurement line may be established. The methods are provided below:

(a) Submission of MYC candidate with President's Budget (PB) - In this case, Exhibits 1, 3, and 5 should be developed and submitted with the MAJCOM Program Objective Memorandum (POM) request. A full exhibit package (Exhibits 1-5) should be submitted in time to support the Budget Estimate Submission (BES). Submission of MYC candidates with the PB (in-cycle) is the preferred method.

(b) Supplemental Appropriation (out-of-cycle) - This is an unusual occurrence and is normally restricted to high interest and/or major systems. The request (including Exhibits 1-5) for a supplemental appropriation should be submitted to SAF/AQCS for staffing.

(c) Reprogramming action for creation of an advance procurement line - The request should include exhibits. A source of funds or a request for fund source should accompany the request to SAF/AQCS. This method would most likely occur to support an opportunity for an expanded small or intermediate MYC that was not known during the in-cycle time frame. Congressional approval is required to create an advance procurement line item. Provide request to SAF/AQCS and allow 90 days to obtain Congressional approval.

(d) Reprogramming funds into an established advance procurement line - The request must include exhibits. This method would most likely occur to support expanded small or intermediate MYCs. Established reprogramming thresholds dictate the level of approval for this action. If Pentagon or Congressional approval is required, provide request to SAF/AQCS.

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## SAMPLE

## DEPARTMENT OF THE AIR FORCE

## FINDINGS IN SUPPORT OF AUTHORIZATION TO MAKE MULTIYEAR CONTRACTS

Upon the basis of the following finding, which I hereby make [as/for] the agency head pursuant to 10 U.S.C. 2306 (b)(1), the contracts described below may be made on a multiyear basis provided appropriate Congressional approvals are obtained.

## FINDINGS

1. The [insert organization] proposed to make multiyear contracts for the production of [insert item].
2. Based upon the attached Multiyear Exhibit Package, I find that:
  - a. The use of multiyear contracts will promote the national security of the United States and will result in reduced total costs under the contracts;
  - b. The minimum need for the property to be purchased under these contracts is expected to remain substantially unchanged in terms of production rate, procurement rate, and total quantities;
  - c. There is reasonable expectation that throughout the contemplated contract periods the Department of the Air Force will request funding for the contracts at the level required to avoid contract cancellations;
  - d. There is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive; and
  - e. The estimates of both the cost of the contracts and the anticipated cost avoidance through the use of multiyear contracts are realistic.

DATE \_\_\_\_\_

SIGN \_\_\_\_\_  
(Approval Authority)

\_\_\_ Atch  
 \_\_. \_\_\_\_\_ Exhibit Package\*  
 dated \_\_\_\_\_ (\_\_\_ pp)

\* Exhibits not required for small classic multiyear contracts.

**ATTACHMENT 5317-3 VALIDATION MULTIYEAR CONTRACT FINDINGS****I. General Requirements****A. Mechanics of Validating**

1. Prior to award, the negotiated multiyear price should be compared to a notional annual buy price that is based upon the annual buy proposal or position (if annual buy proposal has been waived) used in the initial savings validation as updated for comparable proposal and negotiation changes made during the multiyear negotiation process. A full audit trail of the construction of the annual buy position should be maintained in the official contract file. Competitively derived validation findings should reflect a comparison of the contracts actual multiyear proposed price to its comparable annual buy proposed price.
2. Format should be similar to that of the initial findings supported by an updated set of exhibits.
3. Validation findings will be made prior to initiation of the multiyear contract if its price is definitized prior to the initiation.
4. If the multiyear effort was initiated with an undefinitized contract vehicle (letter contract, expanded advance buy contract, etc.) a preliminary validation findings should be prepared based upon dual proposal data as analyzed by the contracting officer to ensure proposal validity. If changes are made to the proposal data in preparing the validation exhibits, the contracting officer should maintain a good audit trail of those adjustments. Following the conclusion of negotiation, a final validation findings must be made before definitization.

**B. Validation Categories and Approval Levels**

1. Validation efforts will result in one of the three situations described in the categories below:

<u>Category</u>	<u>Situation</u>
Category I	Validated savings greater than or equal to initial savings estimate in both dollars and percent Present Value Positive
Category II	Validated savings less than savings estimate in dollars and/or percent Present Value Positive
Category III	Present Value Negative

2. The findings used in the verification are referred to as validation findings. After verification by the contracting officer, the approval of Category I findings shall be done by the same organizational level required to approve the initial findings. For validation Category II findings, SAF/AQ approves major MYCs, and the HCA, or if delegable the designee, approves all others. For validation Category III findings, SAF/AQ approval is necessary for major MYCs and SAF/AQC approval is necessary for all others.

3. After approval of the validation findings, additional reviews or Congressional notifications may be required prior to award depending on unfunded contingent liability amounts, EOQ amounts and others. (See notification requirements in Attachment 5317-4.)

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**ATTACHMENT 5317-4 CONGRESSIONAL NOTIFICATION REQUIREMENTS**

I. This attachment explains the notification requirements legend depicted on Attachment 5317-1, MYC Quick Reference Guide.

A. If the legend shows:

1. None - Proceed with award and provide a copy of the validation finding (including exhibits) to SAF/AQCS.

(a) This is applicable to classic small MYCs and expanded small MYCs with previously established advance procurement line items. (See Attachment 5317-2, paragraph I.B.).

(b) Congressional notification procedures are not affected by the savings validation category for classic and expanded small MYCs.

2. Thirty-day Notification Procedures - Provide a copy of the approved validation findings (including exhibits) to SAF/AQCS 60 days prior to anticipated award. Pentagon staffing will be accomplished and the package provided to four Congressional committees no later than 30 days before anticipated award.

(a) This is applicable to classic intermediate MYCs and some expanded intermediate MYCs.

(b) Expanded intermediate MYCs with previously established advance procurement line items do not require additional Congressional notification unless previously unreported unfunded contingent liabilities over \$20 million exist. For this situation, provide a copy of the approved finding (including exhibits) to SAF/AQCS concurrent with award.

3. Major MYC notification procedures

(a) If validation findings are Category I, provide a copy of the approved finding (including exhibits) to SAF/AQCS concurrent with award. SAF/AQCS will staff the package in the Pentagon and ensure that four Congressional committees are informed of the results of the savings validation.

(b) If validation findings are Category II or III, follow the 30-day notification procedures.

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